IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 109 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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COMMISSIONER OF INCOME TAX

Versus

LEUVA PATEL NUTAN KELWANI MANDAL

Appearance:

1. INCOME TAX REFERENCE No. 109 of 1988
MR MANISH R BHATT for Petitioner No. 1
MR BB NAIK for Petitioner No. 1
MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 29/08/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following question has been referred to this court for its opinion under the provisions of sec. 256(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') :

"Whether in law and on facts the provisions of Sec. 13(1)(b) of the Income-tax Act, 1961 were not applicable and the assessee is entitled to deduction u/s 11 and 12 of the Act?"

2. Learned Standing Counsel Shri B.B. Naik has appeared for the revenue whereas learned advocate Shri R.K. Patel has appeared for the respondent assessee.

3. At the time of hearing of this reference, the learned advocates have fairly submitted that the question, which has been referred to this court, has been answered by this court in I.T.R. No. 33 of 1986. In view of the fact that the question referred to us has been covered by the decision of this court in the case of CIT v. Ahmedabad Rana Caste Association, 88 ITR 354, which was confirmed by the Hon'ble Supreme Court in CIT v. Ahmedabad Rana Caste Association, 140 ITR 1, we answer the question referred to us in the affirmative, i.e., in favour of the assessee and against the revenue.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

(hn)